

***DETAILED ACTION***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed on 03/11/10 after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/11/10 has been entered.
2. Support for the amended claim 27 is found in claim 30 and in the specification (e.g. 0026 and 0028 of PG Pub of this application).
3. In view of applicant's amendment to claim 27 and response, the 35 USC Section 103(a) rejections based on Garbuio (US 3,925,916) in view of Smith et al. (US 5,877,100) are withdrawn. Accordingly, claims 27-47 are allowed.

***Election/Restrictions***

4. This application is in condition for allowance except for the presence of claims 1-26 non-elected without traverse in the response filed on 03/16/06. Accordingly, claims 1-26 have been cancelled.

***Drawings***

5. The drawings were received on 01/16/04 and 03/11/10. These drawings are accepted.

***EXAMINER'S AMENDMENT***

6. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. **Authorization for this examiner's amendment was given in a telephone interview with Ms. Dianne Burkhard on 03/16/10 and 03/17/10.**

7. **The application has been amended as follows:**

8. In the abstract, on page 16, line 2 of the specification before "of apparel", delete "The present invention is directed to articles", and insert "Articles".

9. Add after "...filed July 29, 2002" on page 1, line 9 of the specification: ", now abandoned".

10. In line 2 of each of claims 44-47, replace "a flat insulating structure" with "the flat insulating structure".

11. Cancel claims 1-26.

***Reasons for Allowance***

12. The closest prior art to presently claimed invention is Garbuio (US 3,925,916) and Smith et al. (US 5,877,100).

13. Garbuio discloses a flexible insert for a boot (abstract), wherein the insert functions as a thermal insulator (column 1 lines 15-17). Smith discloses a particulate composition having improved thermal conductivity and insulation bodies having low thermal conductivity (abstract). However, neither Garbuio nor Smith teaches or suggests claim features of "placing ***more than one section*** of the structure material in a gas impermeable envelope" (claims 27 and 30) and "sealing the envelope between sections of the structure material within the envelope to provide flexibility to the flat insulating structure for shaping" (claims 27 and 30).

14. As pointed out by applicant on page 11 of 08/13/09 amendment, Garbuio discloses only one elastomeric core portion (4a) in the gas impermeable envelope NOT both elements 4 and 4a as previously asserted by the Examiner. Additionally, Smith does not teach or suggest "placing ***more than one section*** of the structure material in a gas impermeable envelope" (claims 27 and 30) and "sealing the envelope between sections of the structure material within the envelope to provide flexibility to the flat insulating structure for shaping" (claims 27 and 30). Therefore, it is clear that Garbuio and Smith, either alone or in combination, do not disclose or suggest the present invention. Accordingly, claims 27-47 are allowable over the prior art of record

15. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANISH DESAI whose telephone number is (571)272-6467. The examiner can normally be reached on Monday-Friday, 9:00AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Callie Shosho can be reached on 571-272-1123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. D./

Examiner, Art Unit 1794

/Callie E. Shosho/

Supervisory Patent Examiner, Art Unit 1794